

THE LEONARD LETTER

*A weekly electronic newsletter about
California government, business and taxes*

*Bill Leonard, Member
State Board of Equalization*

May 22, 2006

QUOTE OF THE WEEK

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” --- Bill of Rights, Tenth Amendment to the Constitution

AROUND THE STATE

*****Picket Line*****

From the Bill Leonard Blog 5/18/2006

The news reported that Speaker Fabian Nunez boycotted his own speech at a Berkeley graduation ceremony because he refused to cross a labor picket line. Later it was reported that Democrat party Chairman Howard Dean did the same at Berkeley. There really needs to be a labor union that will picket the state capitol. Imagine the fun that would be had if all the labor party legislators refused to show up for work because they would not cross a picket line.

UNDER THE DOME

*****State Should Offer Deduction to All Commuters*****

Since the state is hauling in gargantuan revenues from high gas prices, let me offer a tax cut that would be enormously popular and would be a very small way for the state to acknowledge its role in gouging commuters with the sales tax on gasoline. It is very simple: California should allow commuting costs to be a tax-deductible expense. We want people to work and we subsidize them if they use transit to get there; why not give a tax break to all commuters?

The law that disallows straight commuting expenses is based on Internal Revenue Code section 162 (Trade or Business Expenses), and Regulation 1.162-2(e), which specifically disallows commuting expenses (but then allows commuting between business locations when the employee has more than one business location).

Since California follows the Internal Revenue Code on this issue, the California legislature should modify California law. The legislature could allow all commuting expenses (like the way

“business travel” is now deductible), or create a new category of “deductible commuting.” Many formulas could be used, such as locations where there is no public transit, or establish an upper and/or lower mileage limit.

ISSUE FOCUS

*****Think Oil Companies Are Greedy?*****

Andrew Chamberlain of the Tax Foundation has written extensively on gas taxes. He has calculated the extent to which federal, state and local government have profited more from gasoline sales than our domestic oil industry. There have only been two years between 1977 and 2004 (the latest data available) when this has not been true. During the period, according to Chamberlain, the oil industry's total domestic profits were \$643 billion, adjusted for inflation. If you are outraged by this number, consider that governments collected \$1.34 trillion in gas taxes after adjusting for inflation over the same period -- more than double what the oil companies made! Chamberlain has a nice graph for illustration:

<http://www.taxfoundation.org/blog/show/1492.html>

TAXING TIMES

*****The Cost of Taxing Consumption Only*****

Libertarian and conservative economists have long complained that it is wrong-headed and even immoral to tax income. The argument is that it makes little sense to tax capital that could be better deployed by individual spending, savings and investment. This is how the economy grows in the most efficient and productive way. Thus, by this theory, the way to maximize tax revenue while having the least deleterious effect on the economy is to stop taxing income and only tax purchases, or, consumption.

The cost of eliminating the state's personal and corporate income taxes in a revenue-neutral manner is not cheap. By my math, for the last seven years, it would have taken an SUT rate of 18.2% to have brought in enough revenue to compensate for no income tax. It is possible that the rate could be less, given a dynamic assessment of revenue yield from a better performing economy.

Under a consumption-only tax system, those with modest incomes would pay more for consumer staple items, but those who buy expensive things would pay far more. While 18.2% is a high number, whether or not one pays more or less tax would largely be a matter of choice because most consumer items are not necessities, consumers can choose to buy them or not. One cannot choose whether or not to pay income tax. Remember also, there would be positive effects on the economy from a more efficient way of treating capital. While this is a very difficult political decision, if it were ever be done, it would be likely to spur income growth and make consumer goods more affordable.

*****A Modest Proposal for Reforming Taxes*****

In the April 24 issue of National Review, Ramesh Ponnuru argues for a way of reforming taxes rather than cutting them across the board. His thinking is that conservatives are not going to get what they really want, either a flat tax or a national sales tax, so the best alternative is an idea that can bring Democrats and Republicans together. He thinks the way to do this is to give more to families in a way that does not reduce revenues overall. Seems to me he is on to something.

The centerpiece of the plan would be a huge expansion of the child tax credit, from \$1,000 to \$5,000 per child. The second feature would be to replace the standard deduction with a tax credit worth \$1,500 for adult individuals and \$3,000 for couples. All itemized deductions, other than the mortgage interest deduction and charitable deduction, would be scrapped. No more AMT for individuals. Capital gains would be taxed as income, but half the long term gain would be excluded. Dividends would be taxed only once, either as individual income or at the corporate level. The six individual income tax rates would be replaced with two: a 15 percent rate and a 30 percent rate. The brackets would be set so as to end the marriage penalty and to raise as much money as the current tax code to make the whole plan revenue-neutral.

This would be real reform. It would be a simpler system, while helping families and economic growth. Some fiscal conservatives would not like the expansion of the child credit because they argue that it reduces revenue while not helping economic growth. But I agree with Ponnuru's argument that it is short-sighted to look at children as if they were consumer goods. The cost of raising kids represents an investment in human capital.

MISCELLANY

*****California County History*****

California's gold strike created a rush for the west coast and people needed to find an alternative to Donner Pass as a way across the Sierras. Peter Lassen, who hailed from Denmark and was one of General Fremont's guides, was the first to explore the area that we know as Lassen County. By 1851, William Nobles began leading groups of settlers on a route that ran from the Humbolt River in Nevada to Shasta City at the northern end of the Sacramento Valley. Many of the settlers stayed in the area, including Isaac Roop who built a trading post. The "Rooptown" settlement later became Susanville, after Isaac's daughter Susan.

In 1856, Lassen and Roop became some of California's earliest tax rebels. They were angry with Plumas County officials who were attempting to levy and collect taxes on the settlers in the region. However, they also did not want to be part of the Utah territory, so Lassen and the group opted to form a separate territory called "Nataqua." Nataqua lasted for a few years, but its end was hastened by a shoot-out between the Plumas sheriff's posse that came to collect California taxes and Susanville pioneers on February 15, 1863. After the fighting, the settlers agreed to have their difference with the tax collectors resolved peacefully. Part of the negotiations included an official survey that placed Susanville in California, not Nevada. Thus Lassen County was established in 1864 and the tax rebels became tax-paying citizens of California.

*****A Good Read*****

If you have found yourself laughing at lawyer jokes, you will hear an echo in Richard A. Epstein's "Simple Rules for a Complex World." Epstein suggests that instead of turning to what has become an incredibly complicated body of law to make our decisions and resolve disputes, we should instead rely on these six rules:

1. Individuals are self-owners;
2. Individuals may acquire unappropriated property;
3. Individuals may make contracts with other people;
4. The law of tort shall redress violations of individuals such as murder, rape, theft, robbery, and fraud;
5. Private property may be violated only when there is overwhelming necessity;
6. Whenever government violates private property, whether by regulation or outright taking, it must compensate the owner.

His book then applies these rules to situations that government and courts deals with every day: labor negotiations, environmental disputes, product liability, discrimination. While rule #4 only applies easily in situations where the victim knows the violator, there is a role for government to underwrite the costs of investigating crimes to identify the perpetrators. Epstein shows how current laws have made worse the situations they propose to fix and offers a compelling case for a society in which fewer laws and fewer lawyers make for freer, happier people.

BOE AND LEGISLATIVE DATES

May 29, 2006 --- Memorial Day.

May 30, 2006 --- Last day to apply for an absentee ballot for the June 6th primary election.

June 6, 2006 --- Primary election.

June 13-14, 2006 --- BOE meets in Culver City.

June 15, 2006 --- Budget bill must be passed by the legislature by midnight.

June 27-28, 2006 --- BOE meets in Sacramento.

June 29, 2006 --- Last day for a legislative measure to qualify for the general election (Nov. 7) ballot.

July 4, 2006 --- Independence Day.

July 18-19, 2006 --- BOE meets in Sacramento.

NOTABLE DATES/ HISTORY

May 22, 1856 --- For denouncing Democrats' pro-slavery policy, Republican U.S. Senator Charles Sumner (R-MA) was beaten nearly to death on floor of Senate by U.S. Rep. Preston Brooks (D-SC).

May 22, 1939 --- German dictator Adolf Hitler and Italian dictator Benito Mussolini signed the "Pact of Steel," establishing a military alliance between their countries.

May 23, 1873 --- Post cards were sold in San Francisco for the first time.

May 24, 1844 --- The first telegraph message was sent from Washington, D.C. to Baltimore, Maryland by its inventor Samuel Morse. The message read: What hath God wrought!

May 25, 1787 --- The Constitutional Convention, presided over by George Washington, opened in Philadelphia to write a new U.S. Constitution.

May 26, 1521 --- The Edict of Worms outlawed German church reformer Martin Luther. Although it was generally understood that Luther would be arrested and punished under the Edict, it was never enforced and Luther continued to translate the Bible into German and seek reforms until his death in 1546.

May 26, 1868 --- The impeachment trial of U.S. President Andrew Johnson ended with the Senate falls one vote short of the two-thirds majority needed to convict him of high crimes and misdemeanors.

May 27, 1647 --- The first recorded execution of a witch in America took place in Massachusetts.

May 27, 1937 --- San Francisco's Golden Gate Bridge opened. It was the longest suspension bridge in existence at the time.

May 28, 1892 --- The Sierra Club was formed by John Muir in San Francisco, for the conservation of nature.

May 29, 1902 --- Virginia Democrats implemented a new state constitution, which was condemned by Republicans as illegal because it reduced African-American voter registration by 86%.

May 29, 1973 --- Tom Bradley was elected the first black mayor of Los Angeles.

May 30, 1854 --- Democrat U.S. President Franklin Pierce signed the Kansas-Nebraska Act, creating two new territories in which settlers would determine the legality of slaveholding. Opponents of the act united to form what became the Republican Party.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.